

AMENDED IN SENATE APRIL 18, 2007

AMENDED IN SENATE MARCH 19, 2007

SENATE BILL

No. 240

**Introduced by Senator Florez
(Principal coauthor: Senator Machado)**

February 14, 2007

An act to add Chapter 5.8 (commencing with Section 40610) to Part 3 of Division 26 of the Health and Safety Code, relating to air pollution, ~~making an appropriation therefor~~, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 240, as amended, Florez. San Joaquin Valley Unified Air Pollution Control District.

(1) Existing law authorizes air pollution control districts and air quality management districts, except as provided, to levy a fee up to \$2 on motor vehicles, and authorizes the districts to increase this fee up to \$6 if certain conditions are met.

This bill would authorize the San Joaquin Valley Unified Air Pollution Control District to increase this fee by not more than \$30 under certain circumstances. The district would also be authorized to impose a surcharge of up to \$300 per year on all stationary, indirect, and areawide sources of air pollution. In addition, the San Joaquin Valley district would be authorized to impose a reasonable emissions fee on any source of air pollution that causes or contributes to a violation of any state or federal ambient air standard for the sole purposes of establishing and implementing programs that the district determines are needed to remediate air pollution harms caused by those sources of air pollution. The district would be required to submit annual audits to the state board

and to the Bureau of State Audits, thereby imposing a state-mandated local program.

The bill would authorize the San Joaquin Valley district to adopt rules and regulations to reduce vehicle trips and air pollution from vehicular sources.

~~(2) Existing law creates the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to authorize \$19.925 billion of state general obligation bonds for specified purposes. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 requires \$3,100,000,000 of these funds to be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account within the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006, and requires \$1,000,000,000 of these funds to be made available, upon appropriation by the Legislature, to the State Air Resources Board for emissions reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors.~~

~~The bill would appropriate \$50,000,000 from the California Ports Infrastructure, Security, and Air Quality Improvement Account to the state board in each fiscal year beginning in 2007-08 to 2012-13, inclusive, to reduce air pollution from mobile sources in the movement of freight along trade corridors in the San Joaquin Valley region.~~

~~The bill would make this appropriation and the provisions described in (1) above applicable only after the state board makes specified findings, including that the federal government has provided an equivalent or greater amount of funds for the purposes of achieving and maintaining state and federal ambient air quality standards.~~

~~(3)–~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(4)–~~

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: ~~yes~~*no*. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 5.8 (commencing with Section 40610)
2 is added to Part 3 of Division 26 of the Health and Safety Code,
3 to read:

4
5 CHAPTER 5.8. SAN JOAQUIN VALLEY CLEAN AIR ATTAINMENT
6 PROGRAM
7

8 40610. The Legislature finds and declares as follows:

9 (a) Residents of the San Joaquin Valley suffer some of the worst
10 air quality in the world. This poor air quality poses a significant
11 threat to public health, the environment, and the economy of the
12 valley.

13 (b) The extreme difficulty for the valley to meet state and federal
14 ambient air quality standards requires an urgent and unified
15 program that combines more strict clean air rules and regulations,
16 and one-time and ongoing funding to clean up those sources that
17 cannot be regulated effectively.

18 (c) The purpose of this chapter is to establish a program for the
19 San Joaquin Valley to achieve state and federal ambient air quality
20 standards by the earliest practicable date.

21 40612. (a) In order to provide funding for air pollution control
22 programs needed to achieve and maintain state and federal air
23 quality, the district may do all of the following:

24 (1) In addition to any other fees imposed by law or district
25 regulations, the district may impose a clean air surcharge of up to
26 three hundred dollars (\$300) per year on all stationary, indirect,
27 and areawide sources of air pollution, including smoke stacks,
28 truck farms, regional distribution facilities, and large housing
29 developments. The district shall set the fees based on the relative
30 contribution of air pollution in the basin from each source.

31 (2) Notwithstanding Sections 44223 and 44225, increase the
32 fee established pursuant to these sections by not more than thirty
33 dollars (\$30) per motor vehicle per year for the purposes of
34 establishing and implementing programs that the district determines
35 are needed to remediate air pollution harms created by motor
36 vehicles on which the surcharge is imposed. Except for the amount
37 of the surcharge, any increase shall be subject to the requirements
38 in Chapter 7 (commencing with Section 44220) of Part 5. The fee

1 increase authorized by this paragraph may only be adopted if the
2 amount generated by the fee imposed under paragraph (1) does
3 not generate one hundred million dollars (\$100,000,000) in funds.

4 (3) Notwithstanding Sections 42311 and 42311.2, impose a
5 reasonable one-time emissions fee on any source of air pollution
6 that causes or contributes to a violation of any state or federal
7 ambient air standard for the sole purposes of establishing and
8 implementing programs that the district determines are needed to
9 remediate air pollution harms caused by those sources of air
10 pollution.

11 (4) Notwithstanding Sections 40717, 40717.5, and 40717.9,
12 adopt rules and regulations to reduce vehicle trips and air pollution
13 from vehicular sources.

14 (b) Fees adopted pursuant to this section are in addition to any
15 other fees imposed by the district and shall total not more than one
16 hundred million dollars (\$100,000,000) in order to fund the state
17 portion of the total amount needed to achieve and maintain state
18 and federal ambient air quality standards. At least ten million
19 dollars (\$10,000,000) of that amount shall be used to mitigate the
20 impacts of air pollution on public health and the environment in
21 disproportionately impacted environmental justice communities
22 in the San Joaquin Valley. The district board shall convene an
23 environmental justice advisory committee, selected from a list
24 given to the board by environmental justice groups from the San
25 Joaquin Valley, to recommend the neighborhoods in the district
26 that constitute environmental justice communities, and how to
27 expend funds within these communities.

28 (c) (1) This section shall become operative only after the state
29 board makes both of the following findings:

30 (A) The district has undertaken all feasible measures to reduce
31 nonattainment air pollutants from sources within the district's
32 jurisdiction and regulatory control.

33 (B) The federal government has provided an equivalent or
34 greater amount of funds for the purposes of achieving and
35 maintaining state and federal ambient air quality standards.

36 (2) The state board shall file a written copy of its findings made
37 pursuant to this subdivision with the Secretary of State within 2
38 days of its determination.

39 40613. (a) The district shall submit annual audits to the state
40 board and to the Bureau of State Audits documenting the

1 expenditure of any funds pursuant to Section 40612 and progress
2 in meeting state and federal ambient air standards.

3 (b) The audits required by subdivision (a) shall be submitted in
4 a form and manner determined by the state board and by the Bureau
5 of State Audits.

6 ~~40614. (a) The sum of fifty million dollars (\$50,000,000) is~~
7 ~~hereby appropriated to the state board in each of the 2007-08,~~
8 ~~2008-09, 2009-10, 2010-11, 2011-12, and 2012-2013 fiscal~~
9 ~~years, from the California Ports Infrastructure, Security, and Air~~
10 ~~Quality Improvement Account from the funds made available~~
11 ~~pursuant to paragraph (2) of subdivision (c) of Section 8879.23 of~~
12 ~~the Government Code.~~

13 ~~(b) Funds appropriated pursuant to this section shall be expended~~
14 ~~by the state board, in consultation with the San Joaquin Valley~~
15 ~~Unified Air Pollution Control District, to reduce air pollution not~~
16 ~~otherwise required to be reduced by any law or regulation from~~
17 ~~mobile sources in the movement of freight along trade corridors~~
18 ~~in the San Joaquin Valley region.~~

19 ~~(c) (1) This section shall become operative only after the state~~
20 ~~board makes both of the following findings:~~

21 ~~(A) The district has undertaken all feasible measures to reduce~~
22 ~~nonattainment air pollutants from sources within the district's~~
23 ~~jurisdiction and regulatory control.~~

24 ~~(B) The federal government has provided an equivalent or~~
25 ~~greater amount of funds for the purposes of achieving and~~
26 ~~maintaining state and federal ambient air quality standards.~~

27 ~~(2) The state board shall file a written copy of its findings made~~
28 ~~pursuant to this subdivision with the Secretary of State within 2~~
29 ~~days of its determination.~~

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 a local agency or school district has the authority to levy service
33 charges, fees, or assessments sufficient to pay for the program or
34 level of service mandated by this act, within the meaning of Section
35 17556 of the Government Code.

36 SEC. 3. This bill shall only take effect if Senate Bill 719 of the
37 ~~2006-07 2007-08~~ Regular Session is enacted and becomes
38 effective.

39 SEC. 4. This act is an urgency statute necessary for the
40 immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order to reduce air pollution and protect public health, thereby
4 preserving the public peace, health, and safety, it is necessary that
5 this act take immediate effect.

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